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House Bill 196 – An Act Relating to the Prohibition of Patriot Penalties in Insurance (Acts Ch. 17)

This Act creates a new statute within KRS Chapter 304, Subtitle 20 to prohibit an insurer from refusing to issue a policy of motor vehicle liability insurance or imposing an additional premium solely because the person is:

- Uninsured at the time of application; and
- During the period the person was without insurance, the person was on military service and absent from the Commonwealth.

Upon application, the Act requires the insurer to request whether the person was on military service during the time the person was uninsured. The insurer is permitted to request reasonable documentation to verify the person’s military service.

An insurer will be found to commit an unfair trade practice if it demonstrates a willful pattern of noncompliance with the requirements of this Act.

As the Act relates to a policy of motor vehicle liability insurance, the provisions of this Act could impact insurance covering any type of motor vehicle included in the definition of KRS 186.010.

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House Bill 250 – An Act Relating to the Regulation of Travel Insurance (Acts Ch. 36)

This Act creates a new Subtitle 52 within KRS Chapter 304 to establish a comprehensive regulatory scheme for travel insurance. Travel insurance is defined to mean insurance coverage for personal risks incident to planned travel, including:

- Interruption or cancellation of a trip or event;
- Loss of baggage or personal effects;
- Damages to accommodations or rental vehicles;
- Sickness, accident disability, or death occurring during travel;
- Emergency evacuation;
- Repatriation of remains; or
- Any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel, as approved by the commissioner.

Travel insurance specifically does not include insurance coverage that provides comprehensive medical protection for travelers with trips lasting longer than six (6) months, including but not limited to those working or residing overseas as an expatriate or any other product that requires a specific insurance producer license.

Scope

The Act applies to travel insurance that covers a resident of Kentucky and is sold, solicited, negotiated, or offered in the state. Further, the Act does not apply to cancellation fee waivers and travel assistance services.

Offering and Disseminating Travel Insurance

Section 3 outlines the requirements for the offering and disseminating of travel insurance by unlicensed persons. Under these provisions, a travel retailer can offer and disseminate travel insurance without holding a license from the Department of Insurance under the following conditions:

- The travel retailer must be supervised by a business entity limited lines travel insurance producer;
- The following information is provided to a purchaser of travel insurance:
 - A description of the material terms or the actual material terms of the insurance coverage;
 - A description of the process for filing a claim;
 - A description of the review or cancellation process for the travel insurance policy; and
 - The identity and contact information of the insurer and the limited lines travel insurance producer.

A travel insurance retailer cannot:

- Evaluate or interpret the technical terms, benefits, and conditions of the travel insurance coverage;
- Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or
- Hold himself or herself out as a licensed or authorized insurer, licensed insurance agent, or insurance expert.

In its supervisory role, the business entity limited lines travel insurance producer must:

- Establish and maintain a register of each travel retailer that it supervises;
- Submit the register to the commissioner upon request;
- Certify that the travel retailers that it supervises comply with 18 USC 1033;
- Designate an individual limited lines travel insurance producer as the person responsible for compliance; and
- Require each employee and authorized representative of the travel retailer who will be offering and disseminating travel insurance to receive a program of instruction and training including, at a minimum, adequate instruction on the type of insurance offered, ethical sales practices, and required disclosures to prospective insureds.

For purpose of this Act, a limited lines travel insurance producer means a properly licensed:

- Managing general agent;
- Administrator;
- Insurance agent holding the applicable line of authority;
- Limited lines travel insurance agent; or
- Surplus lines broker.

Travel Insurance Brochures or Other Written Materials

The information made available to prospective purchasers of travel insurance must:

- Be approved by the insurer providing the travel insurance; and
- Contain the following:
 - The identity and contact information of the insurer and the limited lines travel insurance producer;
 - An explanation that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and
 - An explanation that a travel retailer that is not licensed is permitted to provide only general information about the travel insurance including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the travel insurance or to evaluate the adequacy of the customer's existing insurance coverage.

Requirements for Travel Protection Plans

Section 4 of the Act permits travel protection plans to be offered for a single price if:

- The plan clearly discloses to the consumer at the time of purchase or prior to purchase that:
 - It includes travel insurance, travel assistance services, and cancellation fee waivers, as applicable; and
 - The consumer has the opportunity to obtain additional information regarding the features and pricing of the components of the travel protection plan;
- The fulfillment materials describe the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan and comply with the requirements for travel insurance brochures or other written materials; and
- Do not contain negative options or opt outs (as more fully described below).

“Travel protection plan” is defined as a plan that provides one or more of the following:

- Travel insurance;
- Travel assistance services; or
- A cancellation fee waiver.

“Fulfillment materials” are defined as documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's travel insurance coverage and travel assistance services details.

Business Practices in the Sale of Travel Insurance

Section 5 of the Act subjects persons offering travel insurance in Kentucky to the requirements in KRS 304, Subtitle 12 and establishes the following prohibited practices specific to the sale of travel insurance:

- Offering or selling a travel insurance policy that could never result in payment of any claims for any insured under the policy;
- Marketing blank travel insurance as free; or
- Offering, soliciting, or negotiating travel insurance through the use of a negative option or opt-out, which would require a consumer to take an affirmative action to deselect coverage, including unchecking a box on an electronic form, when the consumer purchases a trip.

This section specifically permits the following actions:

- Providing an accurate summary or short description of coverage on an insurer's website or through an aggregator site that markets travel insurance directly to the consumer if the consumer has access to the full provisions of the travel insurance policy through electronic means; and
- When a consumer's destination jurisdiction requires insurance coverage, requiring a consumer to choose between the following options as a condition of purchasing a trip or travel package:
 - Purchasing the coverage required by the destination jurisdiction through the travel retailer or limited lines travel insurance producer; or
 - Agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements prior to departure.

This section further requires:

- All sales materials, advertising, and marketing materials provided to consumers prior to the purchase of travel insurance to be consistent with the form and rate filing;
- For travel insurance policies containing pre-existing condition exclusions, information be provided to the consumer prior to the time of purchase and in the fulfillment materials regarding the exclusion;
- The fulfillment materials and the required disclosures be provided as soon as practicable after the purchase of a travel protection plan;
- A full refund of the travel protection plan price if:
 - The covered trip has not started;
 - A claim has not been filed; and
 - The policy is canceled sometime during the time period from the date of purchase until at least fifteen (15) days following the date of delivery by postal mail or ten (10) days following the date of delivery by other means.
- The policy documentation and fulfillment materials to state whether the travel insurance is primary or secondary to other insurance.

Licensure Exemptions

Section 6 of the Act permits a licensed managing general agent, administrator, or insurance agent with a property and casualty line of authority to adjust or settle claims in connection with travel insurance without an adjuster license. This section also makes an insurer responsible for the acts of a licensed managing general agent, administrator, or agent administering travel insurance underwritten by the insurer and ensuring that these licensees maintain books and records relevant to the insurer, which are required to be made available to the commissioner upon request.

Rate and Form Filings

In general, travel insurance is required to be classified and filed as inland marine insurance. If the travel insurance provides coverage for sickness, accident, disability, or death occurring during travel either exclusively or in conjunction with related coverages of emergency evacuation or repatriation of remains, it may be classified as health insurance.

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SB 44 – An Act Relating to the Payment of Insurance Premiums and Cost Sharing on Behalf of an Insured Acts Ch. 133)

This Act creates a new statute in KRS Chapter 304, Subtitle 17A to require insurers to accept payment of premium or cost-sharing made on behalf of an insured by the following entities:

- State or federal government programs including payments made for the delivery of essential services to individuals and families with HIV;
- Indian tribes, tribal organizations, or urban Indian organizations; and
- A program conducted by a tax exempt charitable organization operating in accordance with federal laws.

Insurers are permitted, but not required, to accept payments from other third parties.

The Act clarifies:

- Insurers are not required to accept contributions to the minimum deductible for high deductible health plans if accepting the contributions would result in the corresponding health savings account losing its tax exempt status under IRS laws;
- Insurers are not required to accept third party premium payments made by or on behalf of any organization that receives funding from a health care provider; and
- Insureds are ultimately responsible for the timely payment of premium.